

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KIMBERLY BAILEY,

Defendant.

CASE NO. 00-CR-01242 JM  
 CIVIL NO. 06-CV-00155 JM

ORDER DENYING MOTION FOR  
 DISCOVERY; DENYING MOTION  
 FOR APPOINTMENT OF COUNSEL


Defendant moves to unseal a document filed under seal by her former counsel, James Warner. Defendant is engaged in a discovery fishing expedition to find potential evidence that prior counsel, who did not represent her at the time of trial, withheld some type of undisclosed exculpatory evidence. Defendant fails to cite any authority permitting post-conviction, post-habeas discovery in the absence of a showing of substantial need. Accordingly, the motion for discovery is denied.

Defendant also moves to have Debra DiIorio appointed as stand-by counsel to represent her “for any appearance in court.” (Motion at p.1). The court denies such a broad request. Although not reflected on the Court Docket in the above referenced action, the court understands that Defendant has already been appointed stand-by counsel (Debra DiIorio) by the Magistrate Judge. The scope of representation of stand-by counsel for Defendant is limited to issues arising from the decision of the Government or co-defendant Humberto Iribe to call Defendant as a witness at the time of co-defendant’s trial.

1 In the event Defendant is called as a witness in the trial of co-defendant  
2 Humberto Iribe, currently calendared for January 29, 2007, the court will again consider  
3 any request related to the appointment of counsel.

4 **IT IS SO ORDERED.**

5 DATED: December 13, 2006

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7 Hon. Jeffrey T. Miller  
United States District Judge

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